

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, CINDY BARBERA, CARLENE  
BECHEN, RONALD BIENDSEIL, RON BOONE, VERA  
BOONE, ELVIRA BUMPUS, EVANJELINA  
CLEEREMAN, SHEILA COCHRAN, LESLIE W.  
DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH,  
CLARENCE JOHNSON, RICHARD KRESBACH,  
RICHARD LANGE, GLADYS MANZANET,  
ROCHELLE MOORE, AMY RISSEEUW, JUDY  
ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-  
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE  
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel  
for the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,  
PAUL D. RYAN, JR., REID J. RIBBLE,  
and SEAN P. DUFFY,

Intervenor-Defendants.

(caption continued on next page)

---

**PLAINTIFFS' MOTION TO ALTER OR AMEND THE ORIGINAL JUDGMENT  
ON COSTS, AND MOTION FOR ATTORNEY'S FEES AND COSTS  
42 U.S.C. §§ 1973l(e), 1988**

---

Civil Action  
File No. 11-CV-562

Three-judge panel  
28 U.S.C. § 2284

---

VOCES DE LA FRONTERA, INC., RAMIRO VARA,  
OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011  
JPS-DPW-RMD

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

---

### **MOTIONS**

The Baldus Plaintiffs by their counsel, Godfrey & Kahn, S.C., and the Voces de la Frontera plaintiffs by their counsel, the Law Offices of Peter Earle LLC, move the Court, pursuant to Fed. R. Civ. P. 59(e), to alter or amend the judgment entered on March 22, 2012 (Dkt. 211) as to costs, and they further move the Court, pursuant to Fed. R. Civ. P. 54(d), for a statutory award of attorney's fees and costs. In support of these motions, plaintiffs file the accompanying memorandum of law, Declaration of Peter G. Earle, and Declaration of Jacqueline Boynton, and state as follows:

### **GROUND**

1. The Voces plaintiffs filed a complaint on October 31, 2011 (No. 11-CV-1011 (Dkt. 1)), in which they brought a single Voting Rights Act claim based on 2011 Wisconsin Act 43's unlawful dilution of Latinos' voting strength in Assembly District 8. The same claim appears as Claim 6 in the Baldus plaintiffs' Second Amended Complaint (Dkt. 48).

2. The Baldus action and the Voces action were consolidated by order of this Court on November 22, 2011 (Dkt. 55).

3. Following a two-day bench trial before the three-judge panel, this Court held “that the Baldus and Voces plaintiffs are entitled to relief on their Section 2 claim concerning New Assembly Districts 8 and 9, because Act 43 fails to create a majority-minority district for Milwaukee’s Latino community.” Mem. Op. (Dkt. 210) at 33. The Court ordered that “the Government Accountability Board is hereby ENJOINED from implementing Act 43 in its current form.” *Id.* at 37. A lawful redistricting plan for the entire state that remedies this violation is to be adopted by this Court. *See* Order (Dkt. 218) at 3.

4. The memorandum opinion and judgment also provided, without explanation or discussion, “that each party is to bear its own costs.” Mem. Op. (Dkt. 210) at 38; Judgment (Dkt. 211) at 3.

5. Reasonable attorney’s fees and costs are available to prevailing plaintiffs in civil and voting rights actions pursuant to 42 U.S.C. §§ 1973l(e) and 1988.

6. Although sections 1973l(e) and 1988 both “commit fee awards to the district court’s discretion, Congress has nevertheless made clear that prevailing plaintiffs ‘should ordinarily recover an attorney’s fee unless special circumstances would render such an award unjust.’” *Hastert v. Illinois State Bd. of Election Comm’rs*, 28 F.3d 1430, 1439 (7th Cir. 1993).

7. The Baldus plaintiffs and Voces plaintiffs are prevailing parties in this action.

8. No “special circumstances” justify the denial of attorney’s fees and costs.

9. The Voces plaintiffs request a reasonable attorney’s fee of at least \$187,454.22, and reasonable costs of at least \$25,995.56. Documentation as to the value of services, including costs, is provided in the Declaration of Peter G. Earle and the Declaration of Jacqueline Boynton.

10. A “fair estimate” of the attorney’s fees requested by the Baldus plaintiffs is approximately \$350,000, and a fair (if preliminary) estimate of costs is \$125,000. The Baldus plaintiffs request that the Court “decide issues of liability for fees before receiving submissions on the value of services” by their counsel. Fed. R. Civ. P. 54(d)(2)(C).

11. The counsel for the Baldus plaintiffs are making a good faith effort to segregate their time devoted to the Voting Rights Act claim from time devoted to other claims. While the allocation of attorney’s fees is not a mathematical exercise, solely dependent on the number of successful claims divided by the number of unsuccessful claims, an estimated allocation would assist the Court in its determination of reasonableness.

12. The Baldus plaintiffs initiated this action on June 10, 2011, and their counsel’s time records necessarily are more voluminous than those of the counsel for the Voces plaintiffs. Moreover, the respective counsel also require additional time to ensure that their collaborative efforts, both frequent and efficient, are accounted for appropriately in any final request for fees.

### **CONCLUSION**

For the reasons stated above, the plaintiffs move this Court for an order:

1. Amending the judgment to eliminate, pending decision on the motion for attorney’s fees, any suggestion that each party is to bear its own costs;
2. Determining, pursuant to Fed. R. Civ. P. 54(d)(2)(C), that defendants are liable for reasonable attorney’s fees and costs to the Baldus plaintiffs and the Voces plaintiffs;
3. Granting the Voces plaintiffs’ request for \$187,454.22 in attorney’s fees and \$25,995.56 in costs; and
4. Setting a date by which detailed submissions on the value of services by the Baldus plaintiffs’ counsel are to be filed and then determined.

Dated: April 5, 2012.

LAW OFFICE OF PETER EARLE LLC

By: s/ Peter G. Earle  
Peter G. Earle  
State Bar No. 1012176  
Jacqueline Boynton  
State Bar No. 1014570  
839 North Jefferson Street, Suite 300  
Milwaukee, WI 53202  
414-276-1076  
[peter@earle-law.com](mailto:peter@earle-law.com)  
[Jackie@jboynton.com](mailto:Jackie@jboynton.com)  
*Attorneys for Consolidated Plaintiffs*

Dated: April 5, 2012.

GODFREY & KAHN, S.C.

By: s/ Douglas M. Poland  
Douglas M. Poland  
State Bar No. 1055189  
Dustin B. Brown  
State Bar No. 1086277  
One East Main Street, Suite 500  
P.O. Box 2719  
Madison, WI 53701-2719  
608-257-3911  
[dpoland@gklaw.com](mailto:dpoland@gklaw.com)  
[dbrown@gklaw.com](mailto:dbrown@gklaw.com)  
*Attorneys for Plaintiffs*

7732868\_1